

THE HONORABLE RONALD B. LEIGHTON

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

JENNIFER BERRY,

Plaintiff,

v.

EXPEDITORS INTERNATIONAL OF
WASHINGTON, INC., a Washington
Corporation,

Defendant.

No. 3:15-cv-05826 RBL

STIPULATED MOTION AND ORDER
TO EXTEND DISCOVERY CUTOFF
AND OTHER DEADLINES

1. Pursuant to FRCP 16, Plaintiff Jennifer Berry and Defendant Expeditors International, Inc., (collectively, “the Parties”), respectfully request that the Court modify the current case schedule to extend the discovery motions deadline, discovery cutoff and settlement conference deadlines by six weeks, and the dispositive motions deadline by four weeks. The parties have conferred and believe they have good cause to extend these deadlines.

2. In this motion, the parties are not seeking to continue the trial date.

A. STATEMENT OF FACTS

3. Plaintiff filed her Complaint for Damages on November 13, 2015. The current trial date is April 17, 2017 and the current discovery cutoff is December 19, 2016.

1 4. On November 3, 2016, the parties jointly moved for a continuance of the trial
2 date from April 17, 2017 to July 17, 2017, which this Court denied without prejudice on
3 November 7, 2016.

4 5. Since receiving this Court's order, the parties met and conferred regarding their
5 ability to complete discovery, including depositions, under the current case schedule. The
6 parties also held a November 15, 2016 phone conference with James Seely, law clerk to the
7 Honorable Judge Leighton, to discuss their concerns. Mr. Seely informed the Parties that the
8 Court was likely to modify scheduling deadlines based on the Parties' agreement, where the
9 Parties are not seeking to move trial date. He also permitted the Parties to note this discussion
10 in this motion.

11 6. Lead counsel for both parties have significant conflicts during November and
12 December 2016, curbing their ability to complete necessary depositions by the December 19,
13 2016 discovery cutoff. Depositions of all key witnesses still must take place.

14 7. Additionally, the parties are still exchanging written discovery and require more
15 time to attempt to resolve the current discovery conflicts informally, rather than filing
16 discovery motions by the November 28, 2016 deadline.

17 8. Extending the discovery motions deadline and the discovery cutoff by six weeks
18 and the dispositive motions deadline by four weeks will accommodate both parties' scheduling
19 conflicts and also reduce the likelihood of motion practice, while leaving sufficient time before
20 trial.

21 9. The Parties, through their counsel, thus jointly represent that they have "good
22 cause" to extend these deadlines and request an order from this Court modifying the current
23 case schedule. FRCP 16(b).

24 10. Extension of these deadlines would modify the case schedule as follows:

- 25 a. The deadline for filing discovery motions will be moved from
26 November 28, 2016 to January 9, 2017.

- 1 b. The discovery cutoff will be moved from December 19, 2016 to January
2 30, 2017.
- 3 c. The deadline for filing dispositive motions will be moved from January
4 17, 2017 to February 16, 2017.
- 5 d. The deadline for holding a settlement conference under LCR 39.1(c)(2)
6 will be moved from February 8, 2017 to March 22, 2017.

7 **B. EVIDENCE RELIED UPON**

8 The Parties rely upon this Motion and the pleadings, files and records in this
9 proceeding.

10 **C. AUTHORITY AND ARGUMENT**

11 This Motion is based upon the Federal Rules of Civil Procedure, corresponding case
12 law, and the Court's power to control its calendar. Orders entered before the final pretrial
13 conference may be modified upon a showing of "good cause." *Johnson v. Mammoth*
14 *Recreations, Inc.*, 975 F.2d 604, 608 (9th Cir. 1992) (citing Fed.R.Civ.P. 16(b)). In this
15 particular context, "good cause" means that the scheduling deadlines cannot reasonably be met
16 despite the diligence of the party seeking the extension. *Jackson v. Laureate, Inc.*, 186 F.R.D.
17 605, 607 (E.D. Cal. 1999) *citing Johnson*, 975 F.2d at 609.

18 Here, "good cause" exists for modifying the current scheduling deadlines. As
19 discussed in the Statement of Facts, the Parties jointly seek modification of the scheduling
20 order, in light of significant scheduling issues and the desire to resolve current discovery
21 conflicts informally, if possible.

D. CONCLUSION

For the above-stated reasons, the Parties respectfully request that the Court grant their Stipulation and Agreed Motion and request a revised case scheduling order extending the discovery motion deadline, discovery cutoff, dispositive motions deadline and settlement conference deadline as described above.

STIPULATED TO this 16th day of November, 2016.

THE BLANKENSHIP LAW FIRM, P.S.

DAVIS WRIGHT TREMAINE LLP

By: s/ Scott C. G. Blankenship
Scott C. G. Blankenship, WSBA No. 21431
Robin J. Shishido, WSBA No. 45926
The Blankenship Law Firm, P.S.
1000 Second Avenue, Suite 3250
Seattle, WA 98104
Telephone: (206) 343-2700
Fax: (206) 343-2704
sblankenship@blankenshiplawfirm.com
rshishido@blankenshiplawfirm.com

Attorneys for Plaintiff

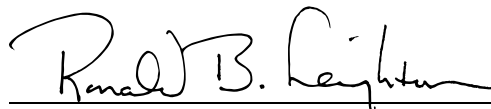
By: s/ Kathryn S. Rosen
Kathryn S. Rosen, WSBA No. 29465
Davis Wright Tremaine LLP
1201 Third Avenue, Suite 2200
Seattle, WA 98101
Telephone: (206) 622-3150
Facsimile: (206) 757-7118
Email: katierosen@dwt.com

Katharine M. Tylee, WSBA No. 40640
Davis Wright Tremaine LLP
777 108th Avenue NE, Suite 2300
Bellevue, WA 98004
Telephone: (425) 646-6100
Facsimile: (425) 646-6199
Email: katetylee@dwt.com

Attorneys for Defendant

PURSUANT TO STIPULATION, IT IS SO ORDERED.

Dated this 17th day of November, 2016.



Ronald B. Leighton
United States District Judge